

**ARTICLE XII**  
**NON-CONFORMING LOTS, USES, AND STRUCTURES**

**SECTION 28 – 1201 General**

- A. Within the zones established by this Ordinance or amendments that may later be adopted there exist lots, structures, and uses of land which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.
- B. It is the intent of this Ordinance not to encourage the survival of non-conformities. Such uses are declared by this Ordinance to be incompatible with permitted uses in the zones involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, except as herein noted, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.
- C. A non-conforming use shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.
- D. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.
- E. Any non-conforming use, including the non-conforming use of a lot, parcel or structure, that is discontinued or abandoned for a period of six (6) months, shall not be resumed thereafter and any future use of lot, parcel, or structure shall conform to the provisions of this Ordinance. Any structure that is moved for any reason for any distance by the owner, shall be required to conform to the regulations for the zoning district in which it is located after it is moved. In the case of any dispute as to whether a non-conforming use is abandoned or discontinued, the burden of proof shall be upon the property owner.
- F. Any non-conforming single or two-family dwelling use located on any lot in the CBD or R-7A districts which is or has been destroyed through condemnation, fire or other catastrophe to an extent of 100% of its assessed value at the time of its destruction may

1 continue said use as long as a single-family or two-family residence is constructed and  
2 made available for occupancy on said lot within eighteen (18) months of the date of its  
3 destruction even though such lot fails to meet the requirements for area, or width, or  
4 both, that are generally applicable in the district.  
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#### 6 **SECTION 28 – 1202 Non-Conforming Lots of Record**

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- 8 A. In any zone in which single-family dwellings are permitted, notwithstanding  
9 limitations imposed by other provisions of this Ordinance, a single-family dwelling and  
10 customary accessory buildings may be erected on any single lot of record at the  
11 effective date of adoption or amendment of this Ordinance. Such lot must be in separate  
12 ownership and not of continuous frontage with other lots in the same ownership. This  
13 provision shall apply even though such lot fails to meet the requirements for area, or  
14 width, or both, that are generally applicable in the zone, provided that yard dimensions  
15 shall conform to the regulations for the zone in which such lot is located. Any variance  
16 of yard requirements shall be obtained only through action of the Board of Appeals.  
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- 18 B. If two or more lots or combination of lots and portions of lots with continuous frontage  
19 in single ownership are of record at the time of passage or amendment of this  
20 Ordinance, and if all or part of the lots do not meet the requirements for lot width and  
21 area as established by this Ordinance, the lands involved shall be considered to be an  
22 undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall  
23 be used or transferred which does not meet lot width and area requirements established  
24 by this Ordinance, nor shall any division of the parcel be made which leaves remaining  
25 any lot with width or area below the requirements stated in this Ordinance.  
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#### 27 **SECTION 28 – 1203 Non-Conforming Use of Land (Not within Structures)**

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29 Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land  
30 exists that is made no longer permissible under the terms of this Ordinance as enacted or  
31 amended, such use may be continued, subject to the provisions of Section 28 – 1205 so long  
32 as it remains otherwise lawful, subject to the following provisions:  
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- 34 A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a  
35 greater area of land than was occupied at the effective date of adoption or amendment  
36 of this Ordinance;  
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- 38 B. No such non-conforming use shall be moved in whole or in part to any other portion of  
39 the lot or parcel occupied by such use at the effective date of adoption or amendment  
40 of this Ordinance;  
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1 **SECTION 28 – 1204 Non-Conforming Structures**

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3 Where a lawful structure exists at the effective date of adoption or amendment of this  
4 Ordinance that could not be built under the terms of this Ordinance by reason of restrictions  
5 on area, lot coverage, height, yards, or other characteristics of the structure or its location  
6 on the lot, such structure may be continued subject to Section 28 – 1205 so long as it  
7 remains otherwise lawful subject to the following provisions:  
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- 9 A. No such structure may be enlarged or altered in a way which increases its non-  
10 conformity;  
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12 B. Any such structure destroyed by any means to an extent of 100% of its assessed value  
13 at the time of destruction as determined by two competent appraisers appointed by the  
14 Planning and Zoning Commission, shall not be reconstructed except in conformity with  
15 the provisions of this Ordinance.  
16  
17 C. Should such structure be moved for any reason for any distance whatever, it shall  
18 thereafter conform to the regulations for the zone in which it is located after it is moved.  
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20 **SECTION 28 – 1205 Non-Conforming Uses Contained within Structures**

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22 If a lawful use contained within a structure exists at the effective date of adoption or  
23 amendment of this Ordinance that would not be allowed in the zone under the terms of this  
24 Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject  
25 to the following provisions:  
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- 27 A. No existing structure devoted to a use not permitted by this Ordinance in the zone  
28 in which it is located except dwellings, shall be enlarged, extended, constructed,  
29 reconstructed, moved, or structurally altered except in changing the use of the  
30 structure to a use permitted in the zone in which it is located;  
31  
32 B. Any non-conforming use may be extended throughout any parts of a building which  
33 were manifestly arranged or designed for use at the time of adoption or amendment  
34 of this Ordinance, but no such use shall be extended to occupy any land outside  
35 such building;  
36  
37 C. Any structure in which a non-conforming use is superseded by a permitted use shall  
38 thereafter conform to the regulations for the zone in which such structure is located,  
39 and the non-conforming use may not thereafter be resumed.  
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1 **SECTION 28 – 1206 Elimination of Certain Non-Conformities**

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3 Certain non-conformities shall be terminated in accordance with the following provision:

- 4  
5 A. Removal of a non-conforming mobile home or trailer shall constitute loss of non-  
6 conforming status for the site on which said non-conforming trailer or mobile home  
7 was located.  
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9 **SECTION 28 – 1207 Special Exception Uses Not Non-Conforming Uses**

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11 Any use for which a special exception is permitted as provided in this Ordinance shall not  
12 be deemed a non-conforming use, but shall without further action be deemed a conforming  
13 use in such zone.  
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15 **SECTION 28 – 1208 Non-Conforming Yards and Setback**

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17 Whenever an existing structure does not conform to the yard or setback requirement, repair  
18 and maintenance can be performed provided that the existing yards or setbacks are not  
19 reduced or altered. No such existing yard or setback may be altered without approval of  
20 the Board of Appeals.  
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22 **SECTION 28 – 1209 Non-Conforming Lots of Record In the Critical Area Overlay Zone:**

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24 An unimproved lot or parcel of land located within the Town of Easton Critical Area  
25 Overlay District ("CAO") may be improved with a single family dwelling and related  
26 accessory uses in a Resource Conservation Area (RCA) and otherwise developed in  
27 accordance with Subsection 28 – 410.2 if the lot is located in Limited Development Area  
28 (LDA) and an Intensely Developed Area (IDA) provided the lot complies with the  
29 provisions of Section 28 – 1012 (Yard Requirements) and further provided that it complies  
30 with the following criteria:  
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- 32 A. Any lot of record established in the Town of Easton prior to the effective date of  
33 the Town's critical Area Program may be improved or developed with a single-  
34 family residence if such lot could have been improved by a single family residence  
35 prior to the effective date of the Town's Critical Area Program.  
36  
37 B. The owner of any lot who has obtained a permit to commence development activity  
38 and who, pursuant to said permit, has commenced development activities to the  
39 point of pouring foundations, footings or installing structural members or whose  
40 right to carry on said development activities has otherwise vested prior to the  
41 effective date of the Town's Critical Area Program, may complete construction as  
42 provided by said permit.  
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- 1 C. Development may take place on lots created prior to 1 June 1984 subject to the  
2 limitations on permitted uses contained in Article IV and subject to the provisions  
3 of Section 28 – 1012.  
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5 D. Development may take place on lots created between 1 June 1984 and 1 December  
6 1985, for which "interim findings" (see MD. Annotated Code N.R. Section 8-1813)  
7 have been made by the Town of Easton Planning and Zoning Commission, the  
8 Easton Board of Zoning Appeals, or the Easton Town Council.  
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